

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4583 of 2000

with

SPECIAL CIVIL APPLICATION Nos. 4118, 4121, 4098,
2832, 4568, 4099, 4115, 4119, 4111, 4097,
4103, 4138 and 2831 of 2000
(14 matters)

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

HIREN VRAJLAL KHAMBHALA BEING MINOR THROUGH GUARDIAN
Versus
ADIJATI VIKAS COMMISSIONER 3RD SPECIAL LAND ACQUISITION

Appearance:

MR TUSHAR MEHTA for Petitioner
MR AD OZA, GOVERNMENT PLEADER with
MR KT DAVE, AGP for Respondent No. 1, 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 20/10/2000

COMMON ORAL JUDGEMENT

The petitioners in the above referred petitions have challenged the orders passed by the respondent-authority cancelling the caste certificates issued in the name of the concerned petitioners. The main ground on which the order of cancellation is passed is to the effect that the District Social Welfare Officer, who has issued the certificates, is not empowered to issue such certificates with regard to Rabari Community of Gir, Barda and Alech areas.

2. Mr Tushar Mehta, learned counsel for the petitioners submits that the petitioners are entitled to be treated as persons belonging to Scheduled Tribe Community, not only on the basis of the certificates issued by the District Social Welfare Officer, but also because of the fact that certificates in the nature of "Vigat Darshak Card" were issued by the Commissioner of Adi-Jati Vikas Department in pursuance to the report submitted by J.M. Malkhan Commission appointed by the State Government to ascertain the claims for this very community. Mr Tushar Mehta points out that a petition involving the aforesaid issue has been decided by this Court being Special Civil Application No. 4593/99 and other allied matters by an order dated 20.9.1999. Mr Mehta, however, submits that the State of Gujarat has preferred an appeal against the aforesaid decision being Letters Patent Appeal No. 1670/99 and allied matters. He has further pointed out that the aforesaid group of appeals as well as connected matters are decided by the Division Bench of this Court (Coram : M.R. Calla & R.R. Tripathi, JJ.).

3. In view of the facts and circumstances of the case, the petitions are disposed of with a direction that if the petitioners make a fresh application before the competent authority viz. Mamlatdar of the respective talukas, the Government shall decide such applications in accordance with law and in accordance with the principles laid down by the Division Bench in the judgment dated 31.8.2000 in Letters Patent Appeal No. 1670/99 and other allied matters.

4. Mr AD Oza, learned Government Pleader with Mr KT Dave, learned AGP states that as and when such applications are made, the competent authority shall decide the same in accordance with law and as per the judgment of the Division Bench as expeditiously as possible.

5. At this stage, Mr Tushar Mehta prays that as the certificates which are cancelled under the impugned

orders were issued long back and the petitioners may have obtained benefits under the above referred certificates, this Court may protect the petitioners till the applications filed by the petitioners are decided by the competent authority under this order.

6. In this context, it is directed that if the petitioners make fresh applications within one month from today before the competent authority as referred to hereinabove for getting caste certificate, the same shall be decided by the authority in accordance with law keeping in mind the decision of this Court referred to hereinabove. It is further directed that till the competent authority decides such applications and a further period of 15 days thereafter whatever benefit is taken by the concerned petitioners under the certificates which are cancelled by the impugned order shall not be disturbed. The competent authority is directed to take a decision on the applications filed by the petitioners within a period of three months from the date of receipt of such applications, after giving an opportunity of hearing to the petitioners.

7. All the petitions are disposed of in the aforesaid terms. Subject to the aforesaid directions, Rule is discharged.

(M.S. Shah, J.)

sundar/-